

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jonathan Phillips	Team: Team # 7	CCRB Case #: 200814385	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/28/2008 5:50 PM	Location of Incident: Crescent Street and 42nd Road	Precinct: 108	18 Mo. SOL 11/28/2009	EO SOL 11/28/2009	
Date/Time CV Reported Mon, 10/06/2008 9:51 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/06/2008 9:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT2 Edward Spagnuolo	07191	905553	NARCBQN
2. DT3 Bryan Zuccaro	02449	931484	NARCBQN
3. DT3 John Bulone	03275	929797	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Bryan Zuccaro	Force: Det. Bryan Zuccaro used physical force against § 87(2)(b)	
B.DT3 John Bulone	Abuse: Det. John Bulone threatened § 87(2)(b) with the use of force.	
C.DT3 Bryan Zuccaro	Abuse: Det. Bryan Zuccaro refused to provide his name and shield number to § 87(2)(b)	
D.DT3 John Bulone	Abuse: Det. John Bulone refused to provide his name and shield number to § 87(2)(b)	
E.DT2 Edward Spagnuolo	Abuse: Det. Edward Spagnuolo refused to provide his name and shield number to § 87(2)(b)	

Case Summary

§ 87(2)(b) called the Civilian Complaint Review Board on October 6, 2008, and filed the following complaint. At approximately 5:50 p.m. on May 28, 2008, § 87(2)(b) was arrested for § 87(2)(b) on the corner of Crescent Street and 42nd Road in Queens. The following allegations resulted from this encounter:

Allegation A- Force: Det. Bryan Zuccaro used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation B-Abuse of Authority: Det. John Bulone threatened § 87(2)(b) with the use of force.

Allegation C- Abuse of Authority: Det. Bryan Zuccaro refused to provide his name and shield number to § 87(2)(b)

Allegation D- Abuse of Authority: Det. John Bulone refused to provide his name and shield number to § 87(2)(b)

Allegation E- Abuse of Authority: Det. Edward Spagnuolo refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)

The delay in the closing of this case is explained by the late reporting of the incident by § 87(2)(b) (four months following the incident), as well as the DA Hold enforced by ADA Antara Kanth on November 24, 2009 (*encl. 21G*).

Results of Investigation

Complainant: § 87(2)(b)

At the time of the incident, § 87(2)(b) was a § 87(2)(b) year old African-American male who stood 5'9", 160 lbs. § 87(2)(b) has black hair and brown eyes.

CCRB Testimony

Investigator Phillips interviewed § 87(2)(b) at Riker's Island on February 19, 2009 (*encl. 6*). At approximately 5:30 PM on May 28, 2008, § 87(2)(b) exited a pizza parlor and began walking towards a Citibank located near the intersection of Crescent Street and 42nd Road in Queens. After walking approximately one city block, § 87(2)(b) noticed an unmarked gray van pull up beside him, whereby Det. Bryan Zuccaro (identified by the CCRB) jumped out of the van, ran towards § 87(2)(b) kicked him in the groin, and punched § 87(2)(b) in the left side of his face with a closed fist. § 87(2)(b) immediately fell to the ground and lost consciousness as he face struck the pavement. § 87(2)(b) had not previously interacted with anyone while he was walking and was not carrying anything in his hands. Before assaulting § 87(2)(b) Det. Zuccaro did not say anything.

After regaining consciousness approximately two minutes later, § 87(2)(b) was dazed, confused, and upset that he had been assaulted for no reason. § 87(2)(b) was lifted from the ground by

Det. Bulone (identified by the CCRB). As Det. John Bulone held § 87(2)(b) upright, § 87(2)(b) began protesting that he hadn't done anything to deserve the beating he received from Det. Zuccaro. Det. Bulone warned § 87(2)(b) "You better settle down or I'll have *him* come back over and kick your ass." When initially filing his complaint, § 87(2)(b) made no mention of the comment made by Det. Bulone.

As Det. Bulone stood with § 87(2)(b) and placed him in handcuffs, Det. Zuccaro and Det. Edward Spagnuolo (identified by the CCRB) deliberated over the details of the incident and the pending charges that would be pressed against § 87(2)(b). Det. Zuccaro asked the other officers to corroborate his story that § 87(2)(b) had threatened to "kick his ass," swung at him, and made a "boxing" gesture. However, Det. Bulone and Det. Spagnuolo were reluctant to corroborate Det. Zuccaro's rendition of the incident and disagreed over the fact patterns involving § 87(2)(b)'s apprehension.

As the officers were discussing the details of the incident, § 87(2)(b) requested that they identify themselves; none of the officers responded or provided their identification. § 87(2)(b) did not report this allegation when initially filing his complaint with the CCRB over the telephone. Eventually, § 87(2)(b) was thrown into the back of the van and transported to § 87(2)(b) where he received treatment for abrasions to both his arms and head. § 87(2)(b) was charged with tampering with physical evidence, resisting arrest, possession of a controlled substance, and disorderly conduct.

NYPD Statement(s):

MICHELLE HAWKINS

- At the time of the incident, Det. Hawkins was a § 87(2)(b) year old African-American female who stood approximately 5'7", 155 lbs. Det. Hawkins has black hair and brown eyes.
- On May 28, 2008, Det. Hawkins was assigned as the arresting officer in regards to a buy and bust operation between 11:27 a.m. and 8:00 p.m. Det. Hawkins was operating RMP #4860 along with Det. Michael Cervini.

Memo Book

Det. Hawkins recorded entries in her memo book concerning this incident (*encl. 8*). At 5:50 p.m. Det. Hawkins recorded that one arrest was made at the corner of Crescent Avenue and 42nd Road.

Arrest Report #§ 87(2)(b)

Det. Michelle Hawkins is listed as the arresting officer for § 87(2)(b)'s arrest, which according to the arrest report, occurred at 5:50 p.m. on May 28, 2008, at the southwest corner of Crescent Street and 42nd Road (*encl. 7*). According to the arrest report, "John Doe" was observed tampering with evidence and acting violent during his arrest for possession of a controlled substance. The arrest report charges "John Doe" with § 87(2)(a) 160.50, § 87(2)(b). There are indications that physical force was used in order to restrain, control, and remove "John Doe."

CCRB Testimony

Based on determinations made by the CCRB indicating that Det. Hawkins was listed solely as the arresting officer and was not on scene during § 87(2)(b)'s apprehension, the CCRB did not interview Det. Hawkins. Det. Hawkins was not a witness to any of the allegations resulting from § 87(2)(b)'s arrest.

Subject Officer: DETECTIVE BRYAN ZUCCARO

- At the time of the incident, Det. Zuccaro was a § 87(2)(b) year old Caucasian male who stood 5'8", 185 lbs. Det. Zuccaro is bald and has hazel eyes.
- On May 28, 2008, Det. Zuccaro was assigned to the chase car between 11:27 AM and 8:00 PM. Det. Zuccaro was working with Det. Spagnuolo and Det. Bulone.

Memo Book

- Det. Zuccaro made entries in his memo book regarding this incident (*encl. 9*). At 5:50 p.m. Det. Zuccaro recorded that one arrest was made at the corner of Crescent Avenue and 42nd Road in Queens.

CCRB Testimony

Investigator Phillips interviewed Det. Zuccaro at the CCRB on December 18, 2009 (*encl. 10*). At approximately 5:50 p.m. on May 28, 2008, Det. Zuccaro observed § 87(2)(b) standing alone near the corner of 42nd Road and Crescent Avenue in Queens smoking crack-cocaine out of a crack pipe. Once Det. Spagnuolo stopped the car, Det. Zuccaro exited the vehicle and gingerly approached § 87(2)(b) as § 87(2)(b) knew Det. Zuccaro from previous arrests. As Det. Zuccaro and § 87(2)(b) made eye contact, § 87(2)(b) said out loud, "Shit. Fuck. It's you again," and tossed his crack pipe over a twenty foot high fence.

As Det. Zuccaro continued approaching § 87(2)(b) he said, § 87(2)(b) just put your hands behind your back." At that point, § 87(2)(b) became agitated and attempted to throw a punch at Det. Zuccaro's face. Det. Zuccaro managed to step out of the way, evading the punch, and subsequently grabbed hold of § 87(2)(b)'s arm and managed to take him to the ground by tripping him. As § 87(2)(b) remained on the ground, Det. Bulone approached and assisted Det. Zuccaro in placing § 87(2)(b) into handcuffs. § 87(2)(b) was continually struggling while he was on the ground. Det. Zuccaro did not recall § 87(2)(b) ever losing consciousness.

Det. Zuccaro denied that he or Det. Bulone ever warned § 87(2)(b) that another officer would return and kick his ass. Det. Zuccaro and Det. Bulone were the only two officers involved in the apprehension of § 87(2)(b). Det. Zuccaro denied that § 87(2)(b) ever requested that the officers identify themselves.

Subject Officer: DETECTIVE JOHN BULONE

- At the time of the incident, Det. Bulone was a § 87(2)(b) year old Caucasian male who stood 6', 275 lbs. Det. Bulone has brown hair and brown eyes.
- On May 28, 2008, Det. Bulone was assigned to the chase vehicle as part of a buy and bust operation within the confines of the 114th and 108th Precinct in Queens. Det. Bulone worked between 2:00 p.m. and 10:00 p.m. with Det. Zuccaro and Det. Spagnuolo. Det. Bulone was dressed in plainclothes and was assigned to an unmarked navy blue van.

Memo Book

- Det. Bulone made entries in his memo book regarding this incident (*encl. 11*). At 5:50 p.m. Det. Bulone recorded that one arrest was made at Crescent Street and 42nd Road.

CCRB Testimony

Investigator Phillips interviewed Det. Bulone at the CCRB on February 5, 2010 (*encl. 12*). At approximately 5:50 p.m. on May 28, 2008, Det. Bulone and his partners were driving southbound on Crescent Street when they observed § 87(2)(b) (identified by Det. Bulone) standing alone on the corner of Crescent Street and 42nd Road smoking crack-cocaine from a crack pipe. The

officers could visibly see and distinguish that § 87(2)(b) was smoking a crack-pipe and not a cigarette. To ensure that § 87(2)(b) did not flee, Det. Zuccaro exited the vehicle and advanced towards § 87(2)(b) in order to apprehend him.

Meanwhile, Det. Spagnuolo continued driving the van, and both he and Det. Bulone consequently lost sight of Det. Zuccaro and § 87(2)(b). Once Det. Spagnuolo managed to find a vacant spot to park the vehicle, Det. Bulone exited the van and advanced towards Det. Zuccaro, who had managed to take § 87(2)(b) to the ground. Det. Bulone denied observing Det. Zuccaro take § 87(2)(b) to the ground and denied that Det. Zuccaro ever struck § 87(2)(b) with an open fist.

As Det. Bulone approached the two individuals, he observed Det. Zuccaro struggling to place § 87(2)(b) in handcuffs. § 87(2)(b) was physically resisting, flailing his arms, and was cursing. At that point, Det. Bulone intervened and assisted in placing § 87(2)(b) into handcuffs. Once § 87(2)(b) was successfully apprehended, the officers radioed for the prisoner van, which arrived on scene shortly after and placed § 87(2)(b) inside. The process of detaining § 87(2)(b) took approximately one minute.

Neither Det. Bulone nor Det. Spagnuolo warned § 87(2)(b) that they would instruct Det. Zuccaro to return and “kick § 87(2)(b)’s ass.” Det. Spagnuolo remained in the vehicle and did not interact with § 87(2)(b). Det. Bulone denied observing any bruises or physical injuries to § 87(2)(b). Det. Bulone denied that § 87(2)(b) ever requested that he or Det. Zuccaro ever identify themselves.

Subject Officer: DETECTIVE EDWARD SPAGNUOLO

- At the time of the incident, Det. Spagnuolo was a § 87(2)(b) year old Caucasian male who stood 6’, 240 lbs. Det. Spagnuolo has brown hair and hazel eyes.
- On May 28, 2008, Det. Spagnuolo was assigned to the chase car as part of a buy and bust operation within the confines of the 108th and 114th Precincts. Det. Spagnuolo worked between 2:00 p.m. and 10:00 p.m. with Det. Zuccaro and Det. Bulone. Det. Spagnuolo was dressed in plain clothes and was the operator of a navy blue unmarked van.

Memo Book

- Det. Spagnuolo made entries in his memo book regarding this incident (*encl. 13*). At 5:50 p.m. Det. Spagnuolo recorded that one arrest was made at the corner of Crescent Street and 42nd Road.

CCRB Testimony

Investigator Phillips interviewed Det. Spagnuolo at the CCRB on February 5, 2010 (*encl. 14*). At approximately 5:50 p.m. on May 28, 2008, Det. Spagnuolo was driving southbound on Crescent Street when he and his partners observed smoke emanating from a crack pipe § 87(2)(b) (identified by the CCRB) was using to smoke crack-cocaine on the corner of Crescent Street and 42nd Road, approximately fifteen feet away from Det. Spagnuolo’s vehicle. At that point, Det. Zuccaro exited the van and advanced towards § 87(2)(b) as Det. Spagnuolo and Det. Bulone remained inside the vehicle, driving approximately two car lengths before finding a vacant spot to stop the van in. Once the van was stopped, Det. Bulone exited and advanced towards Det. Zuccaro.

A few moments later, Det. Spagnuolo exited the van, advanced towards both officers, and observed § 87(2)(b) on the ground in handcuffs. Det. Spagnuolo denied observing how § 87(2)(b) fell to the ground and denied observing Det. Zuccaro strike § 87(2)(b) in the face with a closed fist. Likewise, as he remained seated in his van searching for a vacant spot, Det.

Spagnuolo denied observing § 87(2)(b) strike Det. Zuccaro. Det. Spagnuolo denied hearing the conversation that ensued between Det. Zuccaro and § 87(2)(b). Det. Spagnuolo denied that § 87(2)(b) ever requested that he or his partners ever identify themselves. Det. Spagnuolo denied that he or Det. Bulone ever warned § 87(2)(b) that they would instruct Det. Zuccaro to return and “kick his ass.”

Det. Spagnuolo stated that § 87(2)(b) was very “vulgar” and claimed he was using a lot of profanity. Det. Spagnuolo could not recall specifically what § 87(2)(b) was saying. Det. Spagnuolo maintained that he had a minimal role in this incident and did not have any direct interaction with § 87(2)(b). Moments later, as the prisoner van arrived on scene and assumed responsibility for § 87(2)(b), Det. Zuccaro, Det. Spagnuolo, and Det. Bulone returned to their van and proceeded patrolling the area.

Other Evidence

Although § 87(2)(b) maintained that he received treatment at § 87(2)(b) of Queens, a subpoena sent requesting his medical records yielded negative results. Instead, § 87(2)(b) returned medical records from two emergency room visits by § 87(2)(b) in § 87(2)(b). During a follow up call with Hospital personnel on February 5, 2010, the investigator confirmed that § 87(2)(b) had no visits to § 87(2)(b) in 2008. No medical records regarding this incident were ever received at the CCRB.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of February 5, 2010, with regard to the incident (*encl. 21H*).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

As the investigation determined that Det. Spagnuolo's role in this incident was negligible and that he had no serious interaction with § 87(2)(b) but was present outside during § 87(2)(b)'s arrest, **Allegation E** (concerning the refusal to identify himself) is pleaded against **Det. Spagnuolo**.

Allegations Not Pleaded

§ 87(2)(g)

Investigative Findings and Recommendations

Allegation A- Force: Det. Bryan Zuccaro used physical force against § 87(2)(b)

In the absence of medical records confirming that § 87(2)(b) received treatment at § 87(2)(b) following this incident, § 87(2)(g)

Allegation B-Abuse of Authority: Det. John Bulone threatened § 87(2)(b) with the use of force.

Allegation C-Abuse of Authority: Det. Bryan Zuccaro refused to provide his name and shield number to § 87(2)(b)

Allegation D-Abuse of Authority: Det. John Bulone refused to provide his name and shield number to § 87(2)(b)

Allegation E- Abuse of Authority: Det. Edward Spagnuolo refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)

Team: 7

Investigator:	_____	Jonathan Phillips	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date